

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

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|-----------------------------------|---|--------------------------------------|
| CANAL INSURANCE COMPANY | : | CIVIL ACTION NO. 1:05-CV-2194 |
| | : | |
| Plaintiff | : | (Judge Conner) |
| | : | |
| v. | : | |
| | : | |
| PAUL COX TRUCKING, et al., | : | |
| | : | |
| Defendants | : | |

ORDER

AND NOW, this 4th day of October, 2006, upon consideration of the motion to dismiss (Doc. 16), filed by defendant Class 1 Transport, Inc. ("Class 1"), and of plaintiff's motion to strike Class 1's sur-reply (Doc. 25), and it appearing that Class 1 has filed a motion for summary judgment (Doc. 37) addressing the same issues as its motion to dismiss (compare Doc. 17, with Doc. 38), and that the issues raised by Class 1 may be more appropriately considered in the context of Rule 56 of the Federal Rules of Civil Procedure, it is hereby ORDERED that:

1. The motion to dismiss (Doc. 16) is DENIED.
2. The motion to strike Class 1's sur-reply (Doc. 25) is DENIED as moot.

S/ Christopher C. Conner
CHRISTOPHER C. CONNER
United States District Judge